# SUPREME COURT OF THE UNITED STATES.

## No. 350.

EX PARTE: IN THE MATTER OF LAMBDIN P. MILLIGAN, PETITIONER.

ON A CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF INDIANA.

1 Pleas of the circuit court of the United States for the district of Indiana, begun and held at the court-house at Indianapolis on the 1st Tuesday of May, in the year one thousand eight hundred and sixty-five, before the honorable David Davis, one of the associate justices of the Supreme Court of the United States, and the honorable David McDonald, district judge of the United States for the district of Indiana.

Ex parte: Lambdin P. Milligan, on petition for a writ of habeas corpus.

Be it remembered, that on the 10th day of May, A. D. 1865, in the court aforesaid, before the judges aforesaid, come Messrs. McDonald & Roche, of counsel for said Milligan, and file here in open court the petition of said Milligan, to be discharged from a certain al-
2 leged unlawful imprisonment, with three exhibits accompanying the same, marked, respectively, "A," "B," and "C." At the same time comes also John Hanna, esq., the attorney prosecuting the pleas of the United States in this behalf. And thereupon, by agreement, this application is submitted to the court, and day is given, &c. And the said petition follows in these words and figures, to wit:

3 THE UNITED STATES OF AMERICA, *District of Indiana, ss:*

In the circuit court of the United States in and for the eighth circuit and the district of Indiana, term of , in the year of .

Ex parte: Lambdin P. Milligan; application to be discharged from imprisonment.

Lambdin P. Milligan would respectfully represent unto the honorable the judge of the circuit court of the United States within and for the district of Indiana, that he is a natural-born citizen of the United States, and is now and has been for near twenty years
4 last past a citizen of the said district and State of Indiana and is entitled to all and singular the rights, privileges, and immunities of citizens of the United States and of the State of Indiana.

He further says that he has not been in the military service of the United States at any time, and is not now and never was in the naval service of the United States at any time during his whole life, and is not now, and he expressly says that at the time of the commencement of the grievances hereinafter set forth he was not in the military or naval service of the United States, and has not been therein at any time since.

He further says that on the 5th day of October, in the year 1864 at and in the district of Indiana aforesaid, and at his own home in Huntington county, in said Indiana, he was forcibly seized and arrested by the military power of the United States, and under the authority of the President thereof, in pursuance of the order and command of Brevet Major General Alvin P. Hovey, of the United States volunteers, who was at that time in command of the military district of Indiana, and was immediately after his said arrest conveyed from his

home in said Huntington county, in said district, to the city of Indianapolis therein, and was placed in prison and under a military guard, and held as a military prisoner, under the orders and authority of the President aforesaid and said General Hovey, and has thenceforward until the present time remained in close confinement as such prisoner, and so remains still at the military prison near the "Soldiers' Home," in said city of Indianapolis. And further, that within the last few days his imprisonment has been rendered more close and severe than before, by the fastening of a heavy iron ball and chain to one of his legs, by means of an iron clasp or fetter about his ankle.

He further says that the aforesaid Brevet Major General Alvin P. Hovey, military commander of the district of Indiana, holds him in said military prison in confinement, under the immediate command and control of Colonel A. J. Warner, of the 17th regiment of the veteran reserve corps, now in the military service of the United States, and inferior officers and soldiers under the command of the said Colonel Warner.

He further says that after his arrest, transportation to, and imprisonment at and in said military prison, near the "Soldiers' Home," in said city of Indianapolis and district of Indiana, to wit, on the 21st day of October, in the year 1864, one Major "Henry S. Burnett, judge advocate, department of the Ohio and northern department," preferred five several charges, and sixteen several specifications thereunder, against him, the said L. P. Milligan, and four other persons, to wit, William A. Bowles, Horace Heffren, Stephen Horsey, and Andrew Humphreys, which said charges and specifications are made part of this petition, and a printed copy thereof herewith filed, and, for greater certainty of reference, marked "Exhibit A;" and he says that said Brevet Major General Alvin P. Hovey, military commander of said district of Indiana, as aforesaid, afterwards to wit, on the day of October, in the year 1864, approved said charges, and directed the said Lambdin P. Milligan, and others against whom said charges were preferred by the said judge advocate, to be arraigned and tried thereon by a certain "military commission," which he, the said Brevet Major General Alvin P. Hovey, commander, &c., as aforesaid, had previously appointed, ordained, and convened at said Indianapolis for the trial of such offenders as might be from time to time sent before it for trial; and he hereby makes the order of said Brevet Major General Alvin P. Hovey, military commander, &c., as aforesaid, ordaining, appointing, and convening said military commission, a part of this his petition, and files a copy thereof herewith, which he makes "Exhibit B" for greater certainty of reference.

He further says that afterwards, to wit, on the 21st day of October, 1864, in pursuance of and obedience to the order of said Brevet Major General Alvin P. Hovey, military commander as aforesaid, he and the other persons charged with him in said several charges and specifications were brought before said military commission, and were then and there arraigned upon said several charges and specifications

before said commission by the said Henry S. Burnett, judge advocate as aforesaid, and severally pleaded thereto "not guilty" of said several charges and specifications; but he further says that prior to his pleading to said several charges and specifications as aforesaid, it was expressly understood and agreed between the said judge advocate and himself and his attorneys that his said plea should not in anywise impair his right to object to the jurisdiction of said military commission to try him upon said charges and specifications, or any of them, upon final argument; and that his objection, when so made, should have the same force and effect to which it would have been entitled if made prior to putting in said plea. He further says that
8 after his arraignment and pleading to said charges and specifications as aforesaid, he and others charged with him were put upon trial by and before said military commission, and were all tried by said commission, except the said Horace Heffren, who was released from said charges and specifications by the said judge advocate in order that he might become a witness on behalf of the government, as it was then said. And he further says that said trial was fully ended and concluded as early as the 1st day of January, in the year 1865. And he further says that said military commission found him guilty, and sentenced him to be hung, as will more fully and at large appear, reference being had to General Court-Martial Orders No. 214 of the War Department of the government of the United States for the year 1865, which is made part hereof, and a copy thereof marked "Exhibit C." And he further says that said sentence is ordered by the military commander of the district of Indiana aforesaid to be executed upon him on Friday, the 19th day of May, in the year 1865, at a place near Camp Morton, in the county of Marion, in the State and district aforesaid.

He further says that after the proceedings of said military commission were closed and at an end, and more than twenty days after
9 the commencement of his imprisonment aforesaid, to wit, on the 2d day of January, in the year 1865, the honorable circuit court of the United States for the circuit and district aforesaid convened in the United States court-room in the city of Indianapolis, in said district, and a legal and proper grand jury of the United States were then and there in said court duly empanelled, sworn, and charged to inquire within and for the district of Indiana aforesaid, and due presentments make of all crimes and misdemeanors therein committed against the laws of the United States, and the peace and dignity of the same.

He further says that the said term of said circuit court afterwards, to wit, on the 27th day of January, in the year 1865, came to an end, and the said court then and there adjourned until the 1st Tuesday in May, 1865, having prior to the adjournment thereof, discharged the said grand jury from further service at said term of said court.

And he expressly says that said grand jury at said term of said court adjourned and was discharged by said court without having found any bill of indictment or made any presentment whatever against him
10 for any offence whatever against any law of the United States

or otherwise; and that no bill of indictment or presentment has ever been found or made against him by any grand jury of the United States since his imprisonment, for any offence whatever, although said grand jury met, inquired, and adjourned as aforesaid at the said term of said circuit court.

He further says that said military commission had no jurisdiction whatever under the laws and Constitution of the United States to try him upon said charges or upon any charges whatever, he being a citizen of the United States and of the State of Indiana, and never having been at any time since the commencement of the present rebellion in the United States a resident of any one of the States whose citizens were arrayed against the government of the United States.

He further says that owing to the fact that he has all the time from commencement of said rebellion until his arrest, imprisonment, and trial by said military commission, been an inhabitant, resident, and citizen of Indiana, whose government and people have upheld and supported the government of the United States in its conflict with rebels in arms against it, it was, has been, and still is wholly out of
11 his power to have acquired belligerent rights and placed himself in such relation to government as to have enabled him to violate the laws of war; nor can he ascertain how it is possible for him to have forfeited the rights guaranteed by the Constitution to every citizen of a trial within the State and district in which his alleged offences are charged to have been committed, upon an indictment by a grand jury of such district duly empanelled and sworn, and by an impartial jury of such district empanelled, tried, and sworn according to law.

In order, therefore, that he may have his legal and constitutional rights, he prefers this his humble petition to the honorable circuit court of the United States for the district of Indiana, and prays that under the act of Congress approved March 3d, 1863, entitled "An act relating to *habeas corpus*, regulating judicial proceedings in certain cases," he may be brought before this court by the writ of *habeas corpus*, or such other process as the court may award for that purpose, together with the cause of his caption and detention. to do and receive whatsoever the court may, upon full and final hearing, order and
12 adjudge in relation thereto; and that at all events he may be delivered from said military custody and imprisonment, and if found probably guilty of any improper conduct or offence against the United States of America, turned over to the proper civil tribunal for inquiry and punishment according to law, or for discharge from custody altogether.

He further prays that said writ may be directed to the said Alvin P. Hovey, brevet major general commanding, &c., as aforesaid, the said A. J. Warner, colonel, &c., as aforesaid, and to all other persons under them, and that they each and all of them be required to produce in court the body of him, the said L. P. Milligan, together with the cause of his caption and detention.

And, as in duty bound, he will ever pray, &c., &c.

(Signed) L. P. MILLIGAN.

UNITED STATES OF AMERICA, *District of Indiana:*

I swear the facts set forth in the foregoing petition are true, as I understand them, so help me God.

(Signed) L. P. MILLIGAN.

Subscribed and sworn to before me, the undersigned, a notary public in and for Marion county, in the State of Indiana, this 10th day of May, in the year 1865.

In witness whereof, I have hereunto set my hand and notarial seal, at Indianapolis, in said county and State.

13 [L. S.] (Signed) MILTON BELL, *Notary Public.*

[U. S. revenue stamp, 5 c.]

And said Exhibit A follows in these words and figures, to wit:

*Exhibit A.*

*Charges and specifications preferred against William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, citizens of the State of Indiana, United States of America.*

CHARGE FIRST.—Conspiracy against the government of the United States.

*Specification first.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey did, among themselves, and with Harrison H. Dodd, of Indiana, Joshua F. Bullitt, of Kentucky, J. A. Barrett, of Missouri, and others, conspire against the duly constituted authorities of the United States, and did join themselves to and secretly organize and disseminate a secret unlawful society or order known as the Order of American Knights or Order of the Sons of Liberty,

14 having both a civil and military organization and jurisdiction, for the purpose of overthrowing the government and duly constituted authorities of the United States. This at a period of war and armed rebellion against the authority of the United States, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy. This on or about the 16th day of May, 1864.

*Specification second.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, during an existing rebellion against the government and authorities of the United States, said rebellion claiming to be in the name of and on behalf of certain States, being a part of and owing allegiance to the United States, did combine and agree with one Harrison H. Dodd, of Indiana, Joshua F. Bullitt, of Kentucky, J. A. Barrett, of Missouri, and others, to adopt and impart to others the creed or ritual of a secret unlawful society or order known as the Order of American Knights or Order of the Sons of Liberty,

15 denying the authority of the United States to coerce to submission certain rebellious citizens of said United States, designing thereby to lessen the power and prevent the increase of the

armies of the United States, and thereby did recognize and sustain the right of the citizens and States then in rebellion to disregard and resist the authority of the United States. This at a period of war and armed rebellion against the authority of the United States, at or near the city of Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, which had been and was threatened to be invaded by the enemy. This on or about the 22d day of February, 1864.

*Specification third.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, citizens of the State of Indiana, owing true faith and allegiance to the government of the United States, and while pretending to be peaceable loyal citizens of the government, did secretly and covertly combine, agree, and conspire among themselves, and with one Harrison H. Dodd, of Indiana, Joshua F. Bullitt, of Kentucky, J. A. Barrett, of Missouri, and others, to overthrow and render pow-
16 erless the government of the United States, and did, in pursuance of said combination, agreement, and conspiracy, form and organize a certain unlawful secret society or order, and did extend and assist in extending said unlawful secret society or order known as the Order of American Knights or Order of Sons of Liberty, whose intent and purpose was to cripple and render powerless the efforts of the government of the United States, in suppressing a then existing formidable rebellion against said government. This on or about the 1st day of October, 1863, at a period of war and armed rebellion, at or near the city of Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, which had been and was constantly threatened to be invaded by the enemy.

*Specification fourth.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey did conspire and agree with Harrison H. Dodd, David T. Yeagle, John C. Walker, and Joshua F. Bullitt, and others, (these men at that time holding military positions and rank in a cer-
tain secret unlawful society or organization known as the Order
17 of American Knights or Order of Sons of Liberty,) to seize by force the United States and State arsenals at Indianapolis, Indiana, Columbus, Ohio, and Springfield, Illinois; to release, by force, the rebel prisoners held by the authorities of the United States at Camp Douglas, Illinois, Camp Morton, Indiana, and Camp Chase, Ohio; and the depot of prisoners of war on Johnson's island, and arm those prisoners with the arms thus seized; and that then said conspirators, with all the forces they were able to raise in the secret order above named, were, in conjunction with the rebel prisoners thus released and armed, to march into Kentucky and Missouri, and co-operate with the rebel forces to be sent to those States by the rebel authorities against the government and authorities of the United States. This on or about the 20th day of July, 1864, at a period of war and rebellion against the authority of the United States, at or near the city of Chicago, Illinois, a State within the lines of the army of the United

States, and the theatre of military operations, and threatened by invasion of the enemy.

CHARGE SECOND.—Affording aid and comfort to rebels against the authority of the United States.

18 *Specification first.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, being then members of a certain secret unlawful society or order known as the Order of American Knights or Order of the Sons of Liberty, the United States being then in arms to suppress a rebellion in certain States against the authority of the United States, (said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, Stephen Horsey, and others, then and there acting as members and officers of said secret unlawful society or order,) did design and plot to communicate with the enemies of the United States, and did communicate with the enemies of the United States, with the intent that they should, in large force, invade the territory of the United States, to wit, the States of Kentucky, Indiana, and Illinois, with the further intent that the so-called secret unlawful society or order aforesaid should then and there co-operate with the said armed forces of the said rebellion against the authority of the United States, and did communicate to said armed forces the intent and purposes of said secret unlawful society or order. This at a period of war and armed rebellion against the authority of the

19 United States, at or near the city of Indianapolis, Indiana, a State within the military lines of the army of the United States and the theatre of military operations, which had been and was constantly threatened to be invaded by the enemies of the United States. This on or about the 16th day of May, 1864.

*Specification second.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, while the government was attempting by force of arms to suppress an existing rebellion, while guerillas and other armed supporters of the rebellion were in the State of Kentucky, did send a messenger and brother member with them of a secret unlawful society or order known as the Order of American Knights or Order of the Sons of Liberty, into said State of Kentucky, with instructions for Joshua F. Bullitt, grand commander of said secret unlawful society or order in said State, and other members of said secret society or order in said State, to select good couriers or runners, to go upon short notice, and, for the purpose of assisting those in rebellion against the United States, to call to arms the members of said secret society or order and other sympathizers with the existing rebellion whenever a signal should be given by the authorities of

20 said secret society or order. This on or about the 20th day of July, 1864, at a period of war and armed rebellion against the authority of the United States, at or near Indianapolis, Indiana, a State within the military lines of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

*Specification third.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, being citizens of the State of Indiana, United States of America, and owing true allegiance to the said United States, did join themselves to a certain unlawful secret society or order known as the Order of American Knights or Order of Sons of Liberty, designed for the overthrow of the government of the United States, and to compel terms with the citizens or authorities of the so-called Confederate States, the same being portions of the United States, and in rebellion against the authority of the United States, and did communicate the designs and intent of said order to those in rebellion against the government of the United States. This on or about the 20th day of July, 1864, at a period of war and armed rebellion against the authority of the United States, at or
21 near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

CHARGE THIRD.—Inciting insurrection.

*Specification first.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey did, during a time of war between the United States and armed enemies of the United States, and of rebellion against its government, organize and attempt to arm, and did arm, a portion of the citizens of the United States, through an unlawful secret society or order known as the Order of American Knights or Order of Sons of Liberty, with the intent to induce them, with themselves, to throw off the authority of the United States and co-operate with said armed enemies of the United States against the legally constituted authorities of the United States. This on or about the 20th day of July, 1864, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

22 *Specification second.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey did, by public addresses, by secret circulars and communications, and by other means, endeavor to and did arouse sentiments of hostility to the government of the United States, and did attempt to induce the people to revolt against said government, and secretly organize and arm themselves for the purpose of resisting the laws of the United States and the orders of the duly elected President thereof. This on or about the 16th day of February, 1864, at a period of war and armed rebellion against the authority of the United States, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

CHARGE FOURTH.—Disloyal practices.

*Specification first.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, at a time of war and during *and* armed rebellion against the legally constituted authorities and government of the United States, did counsel and advise citizens of, and owing allegiance and
23 military service to, the United States, to disregard the authority of the United States, and to resist a call or draft designed to increase the army of the United States, and did make preparation and attempt to arm, and did arm, certain citizens of the United States belonging to a certain unlawful secret society or order known as the Order of American Knights or Order of the Sons of Liberty, for the purpose and with the intent of resisting said call or draft. This on or about the 1st day of July, 1864, at or near Shoal's Station, Martin county, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

*Specification second.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, at a time of war and during an armed rebellion against the legally constituted authorities and government of the United States, did counsel and advise citizens of, and owing allegiance and military service to, the United States, to disregard the authority of the United States, and to resist a call or draft designed to increase the army of the United States, and did make preparation and attempt to
24 arm, and did arm, certain citizens of the United States belonging to a certain unlawful secret society or order known as the Order of American Knights or Order of Sons of Liberty, for the purpose and with the intent of resisting said call or draft. This on or about the 1st day of November, 1863, at or near Green Fork township, Randolph county, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

*Specification third.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, at a time of war and during an armed rebellion against the legally constituted authorities and government of the United States, did counsel and advise citizens of, and owing allegiance and military service to, the United States, to disregard the authority of the United States, and to resist a call or draft designed to increase the army of the United States, and did make preparation and did attempt to arm, and did arm, certain citizens of the United States belonging to a certain unlawful secret society or order known as the Order of
25 American Knights or Order of Sons of Liberty, for the purpose and with the intent of resisting said call or draft. This on or about the 16th day of May, 1864, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

*Specification fourth.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, at a time of war and during an armed rebellion against the legally constituted authorities and government of the United States, did counsel and advise citizens of, and owing allegiance and military service to, the United States, to disregard the authority of the United States, and to resist a call or draft designed to increase the army of the United States, and did make preparation and attempt to to arm, and did arm, certain citizens of the United States belonging to a certain unlawful secret society or order known as the Order of American Knights or Order of the Sons of Liberty, for the purpose and with the intent of resisting said call or draft. This on or about the 1st day of August, 1864, at or near Salem, Washington county,
Indiana, a State within the military lines of the army of the
26 United States, and the theatre of military operations, and
which had been and was constantly threatened to be invaded by the enemy.

*Specification fifth.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey did accept and hold offices of the military forces for the State of Indiana, in a certain unlawful secret society or order known as the Order of American Knights or Order of the Sons of Liberty, which said offices and military forces were unknown to the Constitution and laws of the United States or of the State of Indiana, and were not in aid of, but opposed to, the legally constituted authorities thereof. This on or about the 16th day of February, 1864, at a time of war and armed rebellion against the authority of the United States, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

CHARGE FIFTH.—Violation of the laws of war.

*Specification first.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey
did, while the government of the United States was carrying on
27 war with the enemies of the United States engaged in rebellion
against their authority, while pretending to be peaceable loyal citizens of the United States, violate their allegiance, and did, as citizens of said government, attempt to introduce said enemies of the United States into the loyal States of said United States, thereby to overthrow and destroy the authority of the United States. This on or about the 16th day of May, 1864, at or near the city of Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

*Specification second.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey did, during a war between the United States and the said enemies of the United States engaged in rebellion against their authority, and while pretending to be peaceable loyal citizens of the

United States, organize and extend a certain unlawful secret society or order known as the Order of American Knights or Order of the Sons of Liberty, having for its purpose the same general object and design as the said enemies of the United States, and with the
28 intent to aid and insure the success of said enemies in their resistance to the legally constituted authorities of the United States. This at or near the city of Indianapolis, Indiana, on or about the 16th day of May, 1864.

HENRY L. BURNETT,
*Judge Advocate, Department of the Ohio and Northern Department.*

And said Exhibit B follows, in these words and figures, to wit:

*Exhibit B.*

[Special Order No. 129.]

HEADQUARTERS DISTRICT OF INDIANA,
*Indianapolis, September* 17, 1864.

A military commission is constituted to meet at the United States court-rooms in the city of Indianapolis, on the nineteenth (19th) day of September, 1864, at 10 o'clock a. m., or as soon thereafter as practicable, for the trial of Harrison H. Dodd and such other persons as may be brought before it.

*Detail for the commission.*—1. Brevet Brigadier General Silas Col grove, United States volunteers; 2. Colonel Wm. E. McLean, 43d infantry Indiana volunteers; 3. Colonel John T. Wilder, 17th
29 infantry Indiana volunteers; 4. Colonel Thomas J. Lucas, 16th infantry Indiana volunteers; 5. Colonel Charles D. Murray, 89th infantry Indiana volunteers; 6. Colonel Benjamin Spooner, 83d infantry Indiana volunteers; 7. Colonel Richard P. De Hart, 128th infantry Indiana volunteers; Major Henry L. Burnett, judge advocate department Ohio and northern department, judge advocate. The commission will sit without regard to hours.

By order of Brevet Major General Alvin P. Hovey.

AND. C. KEMPER,
*Assistant Adjutant General.*

The commission was subsequently enlarged by the appointment as members thereof of the following named officers: Colonel Ambrose A. Stevens, veteran reserve corps; Colonel Ansel D. Wass, 60th infantry Massachusetts volunteers; Colonel Thomas W. Bennett, 69th infantry Indiana volunteers; Colonel Reuben Williams, 12th infantry Indiana volunteers; Lt. Colonel Albert Heath, 100th infantry Indiana volunteers.

A true copy.

J. W. GORDON.

30 And said Exhibit C follows, in these words and figures, to wit:

31 *Exhibit C.*

[General Court-Martial Order No. 214.]

WAR DEPARTMENT,
*Adjutant General's Office, Washington, May* 2, 1865.

1. Before a military commission which convened at Indianapolis, Indiana, October 19, 1864, pursuant to Special Orders No. 129, dated September 17, 1864; No. 132, dated September 21, 1864; No. 142, dated October 5, 1864; No. 153, dated October 18, 1864; and No. 154, dated October 19, 1864, headquarters district of Indiana, Indianapolis, and of which Brevet Brigadier General Silas Colgrove, U. S. volunteers, is president, were arraigned and tried William A. Bowles, Lambdin P. Milligan, and Stephen Horsey, citizens of the State of Indiana.

CHARGE I.—Conspiracy against the government of the United States.

*Specification 1st.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Limbdin P. Milligan, and Stephen Horsey did, among themselves, and with Harrison H. Dodd, of Indiana, Joshua F. Bullitt, of Kentucky, J. A. Barrett, of Missouri, and others, conspire against the government and duly constituted authorities of the United States, and did join themselves to and secretly organize and disseminate a secret unlawful society or order
32 known as the Order of American Knights or Order of the Sons of Liberty, having both a civil and military organization and jurisdiction, for the purpose of overthrowing the government and duly constituted authorities of the United States. This at a period of war and armed rebellion against the authority of the United States, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy. This on or about the 16th day of May, 1864.

*Specification 2d.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, during an existing rebellion against the government and authorities of the United States, said rebellion claiming to be in name of and on behalf of certain States, being a part of and owning allegiance to the United States, did combine and agree with one Harrison H. Dodd, of Indiana, Joshua F. Bullitt, of Kentucky, J. A. Barrett, of Missouri, and others, to adopt and impart to others the creed or ritual of a secret unlawful society or Order known as the Order of American Knights or Order of the Sons of Liberty, denying the
33 authority of the United States to coerce to subsigning, thereby to lessen the power and prevent the increase of the armies of the United States, and thereby did recognize and sustain the right of the citizens and States then in rebellion to disregard and resist the authority of the United States. This at a period of war and armed rebellion against the authority of the United States, at or near the city of Indianapolis, Indiana, a State within the military lines of

the army of the United States, and the theatre of military operations, which had been and was threatened to be invaded by the enemy. This on or about the 22d day of February, 1864.

*Specification 3d.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, citizens of the State of Indiana, owning true faith and allegiance to the government of the United States, and while pretending to be peaceable loyal citizens of the government, did secretly and
34 covertly combine, agree, and conspire among themselves, and with one Harrison H. Dodd, of Indiana, Joshua F. Billitt, of Kentucky, J. A. Barrett, of Missouri, and others, to overthrow and render powerless the said combination, agreement, and conspiracy, form and organize a certain unlawful secret society or order, known as the Order of American Knights or Order of Sons of Liberty, whose intent and purpose was to cripple and render powerless the efforts of the government of the United States in suppressing a then existing formidable rebellion against said government. This on or about the 1st day of October, 1863, at a period of war and armed rebellion, at or near the city of Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, which had been and was constantly threatened to be invaded by the enemy.

*Specification 4th.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey did conspire and agree with Harrison H. Dodd, David P. Yeagle, John C. Walker, and Joshua F. Bullitt, and others, (these men at that time holding military positions and rank in a certain secret unlawful society or organization known as the Order of American Knights or Order of the Sons of Liberty,) to seize by force the United States and State arsenals at Indianapolis, Indiana, Columbus, Ohio, and Springfield, Illinois; to release by force the rebel
35 prisoners held by the authorities of the United States, at Rock Island and Camp Douglas, Illinois, Camp Morton, Indiana, and Camp Chase, Ohio, and the depot of prisoners of war on Johnson's Island, and arm those prisoners with the arms thus seized; and that then said conspirators, with all the forces they were able to raise in the secret order above named, were, in conjunction with the rebel prisoners thus released and armed, to march into Kentucky and Missouri, and co-operate with the rebel forces to be sent to those States by the rebel authorities of the United States. This on or about the 20th day of July, 1864, at a period of war and rebellion against the authority of the United States, at or near the city of Chicago, Illinois, a State within the lines of the army of the United States, and the theatre of military operations, and threatened by invasion of the enemy.

CHARGE II.—Affording aid and comfort to rebels against the authority of the United States.

*Specification 1st.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Limbdin P. Millican, and Stephen
36 Horsey, being then members of a certain secret unlawful

society or order known as the Order of American Knights or Order of Sons of Liberty, the United States being then in arms to suppress a rebellion in certain States against the authority of the United States, (said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, Stephen Horsey, and others, then and there acting as members and officers of said secret unlawful society or order,) did design and plot to communicate with the enemies of the United States, with the intent that they should in large force invade the territory of the United States, to wit, the States of Kentucky, Indiana, Illinois, with the further intent that the so-called secret unlawful society or order aforesaid should then and there co-operate with the said armed forces of the said rebellion against the authority of the United States, and did communicate to said armed forces the intent and purposes of said secret unlawful society or order. This at a period of war and armed rebellion against the authority of the United States, at or near the city of Indianapolis,
37 Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, which had been and was constantly threatened to be invaded by the enemies of the United States. This on or about the 16th day of May, 1864.

*Specification* 2*d.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Limbdin P. Milligan, and Stephen Horsey, while the government was attempting by force of arms to suppress an existing rebellion, while guerillas and other armed supporters of the rebellion were in the State of Kentucky, did send a messenger and brother member with them of a secret unlawful society or order known as the Order of American Knights or Order of the Sons of Liberty, into said State of Kentucky, with instructions for Joshua F. Bullitt, grand commander of said secret unlawful society or order in said State, and other members of said secret society or order in said State, to select good couirers or runners, to go upon short notice, and, for the purpose of assisting those in rebellion against the United States, to call to arms the members
38 of said secret society or order and other sympathizers with the existing whenever a signal should be given by the authorities of said secret society or order. This on or about the 20th day of July, 1864, at a period of war and armed rebellion against the authority of theUnited States, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

*Specification* 3*d.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, being citizens of the State of Indiana, United States of America, and owing true allegiance to the said United States, did join themselves to a certain unlawful secret society or order known as the Order of American Knights or Order of Sons of Liberty, designed for the overthrow of the government of the United States, and to compel terms with the citizens or authorities of the so-called

Confederate States, the same being portions of the United
39 States, and in rebellion against the authority of the United States, and did communicate the designs and intent of said order to those in rebellion against the government of the United States. This on or about the 20th day of July, 1864, at a period of war and armed rebellion against the authority of the United States, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

CHARGE III.—Inciting insurrection.

*Specification 1st.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Limbdin P. Milligan, and Stephen Horsey did, during a time of war between the United States and armed enemies of the United States, and of rebellion against its government, organize and attempt to arm, and did arm, a portion of the citizens of the United States, through an unlawful secret society or order known as the Order of American Knights or Order of Sons of Liberty,
40 with the intent to induce them, with themselves, to throw off the authority of the United States and co-operate with said armed enemies of the United States against *against* the legally constituted authorities of the United States. This on or about the 20th day of July, 1864, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

*Specification 2d.*—In this: that the said William A. Bowles, Andrew Humpreys, Horace Heffren, Lambdin P. Millican, and Stephen Horsey did, by public addresses, by secret circulars and communications, and by other means, endeavor to and did arouse sentiments of hostility to the government of the United States, and did attempt to induce the people to revolt against said government, and secretly organize and arm themselves for the purpose of resisting the laws of the United States and the orders of the duly elected President thereof. This on or about the 16th day of February, 1864, at a period of war and armed rebellion against the authority of the
41 United States, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

CHARGE IV.—Disloyal practices.

*Specification 1st.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Limbdin P. Milligan, and Stephen Horsey, at a time of war and during an armed rebellion against the legally constituted authorities and government of the United States, did counsel and advise citizens of, and owing allegiance and military service to, the United States, to disregard the authority of the United States, and to resist a call or draft designed to increase the of the United States, and did make preparation and attempt to arm, and did arm, certain citizens of the United States, belonging

to a certain unlawful secret society or order known as the Order of American Knights or Order of the Sons of Liberty, for the purpose and with the intent of resisting said call or draft. This on or about the 1st day of July, 1864, at or near Shoal's Station, Martin
42 county, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

*Specification 2d.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, at a time of war and during an armed rebellion against the legally constituted authorities and government of the United States, did counsel and advise citizens of, and owing allegiance and military service to, the United States, to disregard the authority of the United States, and to resist a call or draft designed to increase the army of the United States, and did make preparation and attempt to arm, and did arm, certain citizens of the United States belonging to a certain unlawful secret society or order known as the of American Knights or Order of the Sons of Liberty, for the purpose and with the intent of resisting said call or draft. This on or about the 1st day of November, 1863, at or near Green Fork township, Randolph county, Indiana, a State within the military lines of the army of the
43 United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

*Specification 3d.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, at a time of war and during an armed rebellion against the legally constituted authorities and government of the United States, did counsel and advise citizens of, and owing allegiance and military service to, the United States, to disregard the authority of the United States, and to resist a call or draft designed to increase the army of the United States, and did make preparations and did attempt to arm, and did arm, certain citizens of the United States belonging to a certain unlawful secret society or order known as the Order of American Knights or Order of Sons of Liberty, for the purpose and with the intent of resisting said call or draft. This on or about the 16th day of May, 1864, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

44 *Specification 4th.*—In this: that the said Wm. A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey, at a time of war and during an armed rebellion against the legally constituted authorities and government of the United States, did counsel and advise citizens of, and owing allegiance and military service to, the United States, to disregard the authority of the United States, and to resist a call or draft designed to increase the army of the United States, and did make preparation and attempt to arm, and did arm, certain citizens of the United States belonging

to a certain unlawful secret society or order known as the Order of American Knights or order of the Sons of Liberty, for the purpose and with the intent of resisting said call or draft. This on or about the 1st day of August, 1864, at or near Salem, Washington county, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

45 *Specification, 5th.*—In this: that the said Wm. A. Bowles, Andrew Humphreys Horace Heffren, Lambdin P. Milligan, and Stephen Horsey did accept and hold offices of the military forces for the State of Indiana, in a certain unlawful secret society or order known as the Order of American Knights or Order of the Sons of Liberty, which said offices and military forces were unknown to the Constitution and laws of the United States or of the State of Indiana, and were not in aid of, but opposed to, the legally constituted authorities thereof. This on or about the 16th day of February, 1864, at a time of war and armed rebellion against the authority of the United States, at or near Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, and which had been and was constantly threatened to be invaded by the enemy.

CHARGE V.—Violation of the laws of war.

*Specification 1st.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey did, while the government of the United States, engaged in rebellion against their authority, while pretending to be

46 peaceable, loyal citizens of the United States, violate their allegiance, and did, as citizens of said government, attempt to introduce said enemies of the United States into the loyal States of said United States, thereby to overthrow and destroy the authority of the United States. This on or about the 16th day of May, 1864, at or near the city of Indianapolis, Indiana, a State within the military lines of the army of the United States, and the theatre of military operations, which has been and was constantly threatened to be invaded by the enemy.

*Specification 2d.*—In this: that the said William A. Bowles, Andrew Humphreys, Horace Heffren, Lambdin P. Milligan, and Stephen Horsey did, during a war between the United States and the said enemies of the United States engaged in rebellion against their authority, and while pretending to be peaceable, loyal citizens of the United States, organize and extend a certain unlawful secret society or Order of the Sons of Liberty, having for its purpose the same general object and design as the said enemies of the United States, and with the intent to aid and insure the success of said enemies in

47 their resistance to the legally constituted authorities of the United States. This at or near the city of Indianapolis, Indiana, on or about the 16th day of May, 1864.

To which charges and specifications the accused, William A. Bowles, Lambdin P. Milligan, and Stephen Horsey, citizens of the State of Indiana, pleaded "not guilty."

*Finding.*—The court having maturely considered the evidence adduced, finds the accused, William A. Bowles, Lambdin P. Milligan, and Stephen Horsey, citizens of the State of Indiana, as follows:

In the cases of William A. Bowles and Lambdin P. Milligan, citizens of the State of Indiana:

*Charge I.*—Of the 1st specification, "guilty;" of the 2d specification, "guilty;" of the 3d specification, "guilty;" of the 4th specification, "guilty;" of the charge, "guilty."

*Charge II.*—Of the 1st specification, "guilty;" of the 2d specification, "guilty;" of the 3d specification, "guilty;" of the charge, "guilty."

48 *Charge III.*—Of the 1st specification, "guilty;" of the 2d specification, "guilty;" of the charge, "guilty."

*Charge IV.*—Of the 1st specification, "guilty;" of the 2d specification, "guilty;" of the 3d specification, "guilty;" of the 4th specification, "guilty;" of the 5th specification, "guilty;" of the charge, "guilty."

*Charge V.*—Of the 1st specification, "guilty;" of the 2d specification, "guilty;" of the charge, "guilty."

In the case of Stephen Horsey, of the State of Indiana:

*Charge I.*—Of the 1st specification, "guilty;" of the 2d specification, "guilty;" of the 3d specification, "guilty;" of the 4th specification, "guilty;" of the charge, "guilty."

*Charge II.*—Of the 1st specification, "guilty;" of the 2d specification, "guilty;" of the 3d specification, "guilty;" of the charge, "guilty."

49 *Charge III.*—Of the 1st specification, "guilty;" of the 2d fication, "guilty;" of the charge, "guilty."

*Charge IV.*—Of the 1st specification, "guilty;" of the 2d specification, "guilty;" of the 3d specification, "guilty;" of the 4th specification, "guilty;" of the 5th specification, "not guilty;" of the charge, "guilty."

*Charge V.*—Of the 1st specification, "guilty;" of the 2d specification, "guilty;" of the charge, "guilty."

*Sentence.*—And the commission does therefore sentence William A. Bowles, Lambdin P. Milligan, and Stephen Horsey, citizens of the State of Indiana, as follows:

In the case of William A. Bowles, citizen of the State of Indiana: "To be hanged by the neck until he be dead, at such time and place as the commanding general of this district shall designate; two-thirds of the members of the commission concurring therein."

50 In the case of Lambdin P. Milligan, citizen of the State of Indiana: "To be hanged by the neck until he be dead, at such time and place as the commanding general of this district shall designate, two-thirds of the members of commission concurring therein."

In the case of Stephen Horsey, citizen of the State of Indiana: "To be hanged by the neck until he be dead, at such time and place as the commanding general shall designate, two-thirds of the members of the commission concurring therein."

The proceedings, findings, and sentences of the commission in

the cases of William A. Bowles, Lambdin P. Milligan, and Stephen Horsey, citizens, were approved by the proper commanders, and the records forwarded for the action of the President of the United States, who approves the sentences and directs that they be carried into execution by the commanding general of the district of Indiana, under the orders of the department commander, without delay.

By order of the Secretary of War.

W. A. NICHOLS,
*Assistant Adjutant General.*

Official:

W. A. NICHOLS,
*Assistant Adjutant General.*

Report receipt and execution.

_____ _____,
*Com'd'g Gen'l Northern Dep't.*

51 And afterwards, to wit, at the court aforesaid, and before the judges aforesaid, such proceedings were had in the cause above entitled that on the 11th day of May, in the year 1865, now comes the said Lambdin P. Milligan, by Messrs. McDonald and Roache, his attorneys, and moves the court that a writ of *habeas corpus* do issue, according to the prayer of said petition; and said Milligan, by his attorneys aforesaid, also prays that he be ordered to be discharged, according to the prayer of the petition aforesaid.

And these motions coming on to be argued at this term, it occurred as a question whether, upon the facts set forth in said petition and exhibits, a writ of *habeas corpus* ought to be issued, as prayed in said petition; and also whether, on the facts stated in said petition and exhibits, the said Milligan ought to be discharged, as in said petition prayed; and also whether, upon the facts stated in said petition and exhibits, the military commission mentioned therein had any
52 jurisdiction to try and sentence said Milligan in manner and form as in said petition and exhibits stated.

On which questions the opinions of the judges were opposed.

Whereupon, on motion of the said Milligan, by his attorneys aforesaid, it is ordered that *that* the said petition and exhibits, together with the following questions, be certified to the Supreme Court of the United States for their decisions, according to the act of Congress in such case made and provided; which questions are these:

1. On the facts stated in said petition and exhibits, ought a writ of *habeas corpus* to be issued according to the prayer of said petition?

2. On the facts stated in said petition and exhibits, ought the said Lambdin P. Milligan to be discharged from custody, as in said petition prayed?

53 3. Whether, upon the facts stated in said petition and exhibits, the military commission mentioned therein had jurisdiction legally to try and sentence said Milligan in manner and form as in said petition and exhibits is stated.

IN THE EIGHTH JUDICIAL CIRCUIT, *District of Indiana, ss:*

I, John D. Howland, clerk of the circuit court of the United States in the circuit and district aforesaid, do hereby certify that the above and foregoing is a full, true, and complete transcript of the record of the cause above entitled, and of all entries and papers therein, as fully as the same remain of record and on file in my office.

In testimony whereof, I do hereto set my hand and affix the seal of said court, at Indianapolis, this 13th day of May, A. D. 1865.

[SEAL.] J. D. HOWLAND, *Clerk*.

[5-cent revenue stamp, cancelled.]

Filed January 12, 1866.